

These recent decisions held that, under the Eleventh Amendment of the United States Constitution, states have sovereign immunity in state and federal courts against money damages suits for intellectual property infringements. The Supreme Court came to this conclusion despite unequivocal Congressional intent to abrogate state sovereign immunity through enactment of the Copyright Remedy Clarification Act (CRCA), Patent Remedy Act (PRA), and Trademark Remedy Clarification Act (TRCA) in 1992.

While immune from suit for money damages when they infringe the intellectual property rights of others, states can still secure protection for their own patents, copyrights, and trademarks under federal law, and can sue infringers of their rights for money damages. I believe it is a serious inequity to allow a State to sue infringers of its intellectual property rights when the State itself can infringe the rights of others with impunity.

Last month, the GAO released a study entitled "Intellectual Property: State Immunity in Infringement Actions." This report provides strong evidence of the need for the legislation we introduce today.

Since 1985, at least 58 intellectual property lawsuits have been brought with a State as one of the defendants, and a larger number have been settled out of court. It is important to note that when these suits occurred, it was largely assumed, or explicitly mandated in federal law, that states were subject to suit for intellectual property infringement. While I do not believe states will become rampant, willful infringers as a result of the recent Supreme Court decisions, it is reasonable to assume that the incidence of State infringements will increase. Conversely, the dramatically growing patent, copyright, and trademark portfolios of State entities foretell a corresponding increase in intellectual property suits brought by States. In other words, the facts indicate that the inequity will increase as time progresses unless Congress takes action.

As I noted, Congress previously passed legislation to correct the inequity created by State immunity from suit for intellectual property infringements, and the Supreme Court struck down these Acts on constitutional grounds. The legislation my colleagues and I introduce today represents a well-considered attempt to correct the identified inequity in a constitutionally permissible manner.

Senator LEAHY, Chairman of the Senate Judiciary Committee, and his staff deserve the greatest measure of credit for their hard work in developing this legislation. Also deserving credit are the many constitutional scholars, policy advocates, and government agencies that contributed their time, thoughts, and drafting talents to this effort.

I am pleased that a consensus emerged among the various collaborators in support of the "waiver" approach embodied in the legislation. During a hearing before the House Judiciary Subcommittee on Courts and Intellectual Property last summer, I opined that the "waiver" approach appeared the best mechanism to rectify the inequity in our intellectual property laws. By creating a "waiver" requirement—that is, requiring a State to waive its sovereign immunity from suits for intellectual property infringement in order to secure the ability to bring such suits itself—we avoid constitutional pitfalls and still manage to create an even playing field for all intellectual property owners.

Though we developed this bill in a highly collaborative and deliberative manner, I by no means maintain that it is a "perfect" solution. Thus, I will remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences. However, I am firmly committed to moving this legislation during the remainder of the 107th Congress.

TRIBUTE TO THE SHEET METAL
WORKERS LOCAL #20 OF GARY,
INDIANA

HON. PETER J. VISCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 2001

Mr. VISCLOSKEY. Mr. Speaker, it is my distinct honor to congratulate some of the most dedicated and skilled workers in Northwest Indiana. On November 2, 2001, in a salute to their workers' durability and longevity, the Sheet Metal Workers Local #20, of Gary, Indiana, will honor their members with fifty, forty, and twenty-five years of continued service. These individuals, in addition to the other Local #20 members who have served Northwest Indiana so diligently for such a long time, are a testament to the proto-typical American worker: loyal, dedicated, and hard-working.

The men and women of Local #20 are a fine representation of America's working families. I am proud to represent such dedicated men and women in Congress. The Sheet Metal Workers Constitution states, "... to establish and maintain desirable working conditions and thus provide for themselves and their families that measure of comfort, happiness and security to which every citizen is entitled in return for his labor, from a deep sense of pride in our trade, to give a fair day's work for a fair day's pay." For fifty years, the following individuals have followed this creed: Robert Molnar, Eugene Rucker, and Leland Thompson. In 1961, Donald Odell and Gerard Wardell began their own forty years of membership in the Sheet Metal Workers trade union. In addition to the great service and dedication displayed by the fifty and forty-year Sheet Metal Workers Local #20 members, the individuals with twenty-five years of continued service that will be honored include: Bruce Bassett, Richard Beres, Michael R. Birky, Randall Bohn, George Fedorchak, Joseph P. Lain, Nancy Fields, James P. Fredianelli, Jeffrey R. McClelland, Paul Popa, Jay K. Potesta, Mark E. Williams, and James A. Zimmer. I would also like to congratulate those individuals that graduated from the Residential Apprenticeship program. These individuals include: William Aicher, Jason Atwood, Brian Bajda, Daniel Elkins, Daniel Geeding, Timothy Howard, Richard Mann, Rober McGuire, David Mostello, Daniel Nelson, Shawn Novak, Mark Rehtorik, and William Wolfe.

Mr. Speaker, I ask that you and my distinguished colleagues join me in congratulating these dedicated, upstanding members of the Sheet Metal Workers Local #20 for their hard work in fulfilling the "American Dream." I offer my heartfelt congratulations to these individuals, as they have worked arduously to make this dream possible for others. They have proven themselves to be distinguished advocates for the labor movement, and they have

made Northwest Indiana a better place in which to live and work.

AN AMERICAN YOUTH DAY CELEBRATION—ANCIENT CITY KIDS' DAY, ST. AUGUSTINE, FLORIDA

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 2001

Mr. CRENSHAW. Mr. Speaker, in April, I introduced a resolution to encourage communities nationwide to observe an annual American Youth Day. In June the U.S. House of Representatives passed that legislation by unanimous vote.

American Youth Day seeks to promote local and national activities that fulfill the five promises of America's Promise—the Alliance for Youth, which was founded by Secretary of State Colin Powell. America's Promise calls for a concerted effort from every segment of society to address the most notorious difficulties facing the youth of America. The five promises to America's youth include (1) fostering ongoing relationships with caring adults; (2) providing safe places with structured activities during non-school hours; (3) building a healthy start and future; (4) teaching marketable skills through effective education; and (5) providing opportunities to give back through community service.

This past Saturday, the Fourth Congressional District hosted its own version of American Youth Day as part of St. Augustine's Ancient City Kids' Day in St. Augustine, Florida. St. Augustine's Ancient City Kids' Day brought together children's service agencies and businesses in celebration of the St. Johns County's commitment to the well-being of its children. Our nation's oldest city showed its youngest citizens how special they are.

I was proud to join over 50 organizations that provided information for parents and fun and games for the children. Ronald McDonald was there to make us laugh. Lisa Mack emceed entertainment provided by Pak's Karate Club and the Saints Cheerleading Squad. The Puppet Man put on shows, the Junior Women's Club helped children make hats, and the Communities in Schools program held a basketball tournament and read stories to youngsters.

The St. Johns County Sheriff's Office, the Fire Department and EMS all had equipment displays for the more than 3,500 visitors to view and admire. Other groups, like EPIC Community Services and Project Northland, had marble painting, baseball tosses and an obstacle course. It was a carnival atmosphere founded on family fun.

St. Johns Ancient City Kids' Day is exactly the type of event that we need across America to highlight our children and the groups and individuals who give of their time and money to guide them.

I salute our nation's oldest city on their unselfish commitment to our youth and challenge all the great cities in America to establish their own youth day celebrations.